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BOVINE TB

Senate Bill 1339 (Substitute H-1) First Analysis (10-3-00)

Sponsor: Sen. George McManus Jr.
**House Committee: Agriculture and
Resource Management**
**Senate Committee: Farming, Agribusiness
and Food Systems**

THE APPARENT PROBLEM:

On June 27, 2000 – nearly six years after a bovine tuberculosis-infected wild white-tailed buck was killed by a hunter in Alpena County – the United States Department of Agriculture (USDA) rescinded Michigan's bovine TB free accredited status. The state's livestock industry already has been adversely impacted by the bovine TB outbreak, which spread from wild deer to domestic cattle, in the northeastern Lower Peninsula. The state Department of Agriculture had quarantined this area of the state and had been negotiating with the USDA for a "split state" bovine TB status, under which Michigan would have been divided into disease control zones and allowed part of the state to keep its USDA bovine TB-free status. However, the rules that were to be implemented in a "memorandum of understanding" between the USDA and the Michigan Department of Agriculture (MDA) were indefinitely postponed when bovine-TB infected wild deer were identified outside of the quarantined area in the northeastern Lower Peninsula.

Loss of the state's bovine-TB free status has serious adverse economic consequences for the state's livestock industry, which will have to perform expensive and time-consuming disease testing before it will be able to export its animals out of state. But livestock farmers' financial losses also include losing not just markets for their animals, but the animals themselves when infected herds are destroyed (which is the action taken when a herd is identified as infected), despite the state's increased indemnification in 1998 for slaughter of infected animals. Reportedly, the market for Michigan cattle going to other states has virtually disappeared as these other states have imposed rigorous, expensive testing requirements on livestock imported from Michigan. And even when a farmer's livestock test free of bovine TB, the expensive and time-consuming nature of bovine TB testing means loss of market share. The livestock farmers in the quarantined area of the state have been particularly

hard hit, and reportedly have been having difficulty in moving any of their livestock out of the quarantined area, even including their equine stock.

Legislation has again been introduced to help the state's livestock industry deal with its economic losses due to the bovine TB epidemic.

THE CONTENT OF THE BILL:

The bill, among other things, would amend the Animal Industry Act to do the following:

- Add a statement that the act was "intended to protect the health, safety, and welfare of humans and animals";
- Allow the director of the MDA to implement livestock movement restrictions and requirements and to establish high-risk and potential high-risk areas when bovine TB were identified, and to provide for testing in the identified areas;
- Create "terminal operations" for cattle and goats – facilities "to allow for continued growth and finishing until such time as the cattle and goats [were] shipped directly to slaughter";
- Require the MDA to pay livestock producers for their time and labor in helping test their herds for bovine TB, and to pay veterinarians and livestock auction market owners or operators for half of the costs of the chutes and gates necessary for bovine TB testing on a cost-share basis;
- Increase the indemnification cap from \$3,000 to \$4,000 per animal and base indemnification on 100 percent, instead of 90 percent, of the fair market value of the type of livestock as marketed for the purpose for which the animal was intended;

- Remove the January 1, 2005 date after which, currently, indemnification is scheduled to drop from the current 90 percent to 75 percent of the fair market value based on “grade status”-- not the purpose for which the animal was intended -- and the maximum cap is scheduled to drop from the current \$3,000 per animal to \$1,250 per animal;

- Allow the MDA to pay a livestock owner a total indemnification of up to \$100,000 per order (“from any line item in the annual budget for the department in the applicable fiscal year”) instead of the current maximum of \$10,000 per order;

- Exempt from disclosure under the Freedom of Information Act any medical or epidemiological information that identifies the owners of animals and that is gathered in connection with the reporting of (or investigation of) a discovery, suspicion or reason to believe that an animal is affected by a reportable disease or contaminated with a toxic substance, unless public inspection is necessary to protect the public or animal health, as determined by the director of the Department of Agriculture;

- Revise and expand bovine TB provisions regarding privately owned cervids;

- Require the director of the MDA to report annually to both houses of the legislature on the amount spent by the department for bovine TB eradication, including an explanation of those expenditures, and the status of bovine TB eradication efforts;

- Repeal, as of January 1, 2001, the current equine infectious anemia testing requirements, and replace these provisions on that date with new testing requirements for equines being moved into the state or shown, sold, or transported inside the state;

- Prohibit, without MDA approval, the importation of poultry vaccinated for infectious laryngotracheitis.

HOUSE COMMITTEE ACTION:

The House Committee on Agriculture and Resource Management amended the Senate-passed version of the bill (S-1), and substituted a House H-1 version that would do the following:

- Require, rather than allow, the director of the Michigan Department of Agriculture (MDA) to devise and implement a compensation program for livestock owners whose livestock died, were injured, or needed

to be destroyed while being tested or under surveillance for a reportable disease;

- Require newspaper notification in each county with a proposed movement restriction area, as well as in at least two newspapers outside the proposed area (instead of, as in S-1, requiring notification in at least three “major newspapers,” one of which would have been in the Upper Peninsula);

- Require, rather than allow, “terminal operations” to be monitored by written, MDA-approved surveillance plans;

- Strike section 11a, which would have required MDA registration by all premises with cattle, bison, goats, swine, privately owned cervids, aquaculture, equine, or sheep.

- Raise indemnification for individual livestock or domestic animals from 90 percent of its fair market value to 100 percent (while keeping the \$4,000-per-animal cap recommended in S-1);

- Add a reporting requirement for the Department of Natural Resources similar to that added by S-1 for the MDA, namely, requiring the director to report annually to the legislature on bovine TB eradication efforts (including the preceding year’s expenditures and the status of these efforts);

- Reinstate the current requirement (which S-1 would have deleted) that a fish disease inspection report accompany aquaculture imported into Michigan.

FISCAL IMPLICATIONS:

Fiscal information is not available on the H-1 version of the bill. However, the Senate Fiscal Agency floor analysis of the Senate-passed version of the bill says that the bill would increase state costs associated with (a) a livestock producer assistance program for bovine TB testing, (b) a 50/50 cost share program for equipment (such as chutes and gates) bought by veterinarians and livestock auction markets for bovine TB testing, and (c) the increase in per animal indemnification payments.

Currently, the Department of Agriculture pays for all required testing associated with bovine TB, at an estimated cost of \$40 per site visit plus \$10 per animal, while the costs of chutes and gates required for bovine TB testing is borne by veterinarians and livestock auction markets. The bill would allow the MDA to pay a producer for help (such as time and labor) associated

with testing livestock for bovine TB, and would establish a 50/50 cost share program for chutes and gates purchased to do bovine TB testing (with the MDA paying half and veterinarians and auction markets paying half). Actual additional costs to the state are not known because both programs would require approval by the Agriculture Commission and participation rates in either program also are not known.

The cost of the proposed increase in indemnification caps would depend on the number and value of the animals destroyed, though state indemnification payments associated with the bovine TB testing program through September 18, 2000, totaled \$700,000. Total state appropriations through the MDA budget for bovine TB testing, surveillance, and indemnification over the past three fiscal years (from 1997 through 2000) has been approximately \$29 million. (9-22-00)

ARGUMENTS:

For:

As the seriousness of the bovine TB epidemic has become more evident over the last six years, the economic losses to the state's livestock industry have mounted. The state has responded by raising indemnification amounts for the destruction of infected animals in 1998, but more needs to be done. Also, although the state has borne the costs of its extensive bovine TB surveillance and testing program, the time and labor put in by livestock producers, as well as the time and money spent by veterinarians and livestock auction markets for equipment such as chutes and gates to carry out bovine TB testing, have had a serious economic impact. The state can and should do more to help the livestock industry financially, and the bill would do this in a number of ways, including raising the indemnification cap on individual animals by \$1,000 (from \$3,000 to \$4,000), and on whole herds from \$10,000 to \$100,000. The bill also would let the MDA, with Agriculture Commission approval, pay livestock producers for their time and labor in helping with bovine TB testing of their animals, and enter into a 50/50 cost share program with veterinarians and livestock auction markets to pay for the equipment necessary to do bovine TB testing. The bill also would help livestock farmers in the northeastern Lower Peninsula in particular by doing away with the current quarantine and instead replacing it with a classification system involving "disease free zones," "infected zones," and "surveillance zones." This will remove the stigma of quarantine from the heart of the bovine TB

outbreak area in the northeastern Lower Peninsula, and aid livestock producers from this area move their animals both inside and outside the state more easily.

Against:

Although the bill would add a statement that it was intended to protect the health, safety, and welfare of humans and animals, at the same time it would keep the public from finding out whether a livestock producers' animals were infected with bovine TB (by exempting this information from the Freedom of Information Act and making any medical or epidemiological information that identified the owners of animals and that was gathered under the act confidential) unless the director of the Department of Agriculture decided that disclosure of the information was necessary to protect the public or animal health. In the first place, why should the director of the MDA – and not the director of the state's public health department, the Department of Community Health – make such crucial decisions about public health? Certainly the director of the MDA would be the appropriate decision maker for animal health in the state, but giving the MDA – instead of public health officials – the ability to withhold from the public vital information on a terrible disease that can infect humans as well as cattle and other non-human animals seems wrong. At the very least, the public should be allowed to access through the Freedom of Information Act information that could be vital to their health and that of their families.

Response:

Since the information required to be reported includes not only the reporting of an actual discovery that an animal is infected with a reportable disease, but also of the suspicion or reason to believe that an animal is so infected, allowing public access to unconfirmed suspicions of infection could result in unnecessary economic losses to livestock producers.

Reply:

At the very least, then, the public should be given access to information concerning animals who have been confirmed to be infected with reportable diseases. In a time when public concern over food safety has been rising, surely this would be the sensible course to take.

Against:

Some people believe that the proposed \$100,000 cap on total indemnification for an individual livestock owner should be eliminated altogether, and that the MDA simply should indemnify livestock owners for their losses, whatever they might be.

Response:

Eliminating the total indemnification cap altogether could result in the MDA having to take money from other vital agricultural programs just to meet livestock producers' losses due to reportable diseases, which are not restricted to bovine TB alone. The legislature has appropriated money and the department has budgeted to meet the proposed \$100,000 cap – which, after all, is ten times the current cap – and this figure should remain as proposed.

POSITIONS:

The Department of Agriculture strongly supports the bill. (9-27-00)

The Michigan Farm Bureau supports the bill. (9-27-00)

Representatives of the following groups indicated their support of the bill (9-27-00):

- The Dairy Farmers of America
- The Michigan Milk Producers
- The Michigan Elk Breeders Association
- The Michigan Deer Breeders Association

Analyst: S. Ekstrom

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.